

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI**

PETER NYACHIRA, on behalf of himself and
all other similarly situated persons,

Plaintiffs,

v.

NEW PRIME, INC.,

Defendant.

Case No. 6:21-cv-03211-BP

**JOINT STIPULATION AS TO THE ADMISSIBILITY AND PRESENTATION OF
EVIDENCE AND DEMONSTRATIVES**

Pursuant to this Court’s Amended Pretrial and Trial Scheduling Order (Doc. 480, as amended at Doc. 510), Plaintiff Peter Nyachira, on behalf of the Rule 23 class and the FLSA collective, (collectively, “Plaintiffs”) and Defendant New Prime, Inc. (“Prime”), by and through their undersigned counsel, stipulate to the following regarding the use and treatment of certain evidence and argument at trial:

1. Authenticity. The parties have stipulated to the authenticity of documents produced by the parties, subject to any other objections based on relevance or any other applicable Federal Rules of Evidence, and with the exceptions noted below.

a. With respect to documents produced by Plaintiffs, this stipulation does not apply to website screenshots or NYACHIRA-000490-000504.

b. For any documents or data reproduced in corrected form, this stipulation applies only to the reproduced version. Specifically, as to data, this stipulation applies only to:

i. PRIME-406287

- ii. PRIME-407198
- iii. PRIME-407202
- iv. PRIME-471687
- v. PRIME-407205
- vi. PRIME-407518
- vii. PRIME-455971
- viii. PRIME-455972
- ix. PRIME-447281
- x. PRIME-447282
- xi. PRIME-447283
- xii. PRIME-447284
- xiii. PRIME-447285
- xiv. PRIME-447286
- xv. PRIME-447287
- xvi. PRIME-447288
- xvii. PRIME-447289
- xviii. PRIME- 447290
- xix. PRIME-447291
- xx. PRIME-447292
- xxi. PRIME-447293
- xxii. PRIME-447294
- xxiii. PRIME-447295
- xxiv. PRIME-447296

xxv. PRIME-447297

xxvi. PRIME-447298

xxvii. PRIME-447299

xxviii. PRIME-447300

xxix. PRIME-447301

xxx. PRIME-447302

xxxi. PRIME-447303

xxxii. PRIME-447304

xxxiii. PRIME-447305

xxxiv. PRIME-447306

xxxv. PRIME-447307

xxxvi. PRIME-447308

xxxvii. PRIME-447309

xxxviii. PRIME-447310

xxxix. PRIME-447311

xl. PRIME-447312

xli. PRIME-447313

xlii. PRIME-447314

xliii. PRIME-447315

xliv. PRIME-447316

xlvi. PRIME-447317

xlvi. FLSA class list (“Opt-In List (final).xlsx (03191301x9E351).xlsx”)

xlvi. Rule 23 class list (“R23 Class List Re. (final))xlsx
(03191302x9E351).xlsx”)

2. Foundation. The parties agree that the following data, produced by Prime in this matter, may be introduced with an appropriate witness without a need to lay foundation as to the source of the data.

- a. PRIME-406287
- b. PRIME-407198
- c. PRIME-407202
- d. PRIME-471687
- e. PRIME-407205
- f. PRIME-407518
- g. PRIME-455971
- h. PRIME-455972
- i. PRIME-447281
- j. PRIME-447282
- k. PRIME-447283
- l. PRIME-447284
- m. PRIME-447285
- n. PRIME-447286
- o. PRIME-447287
- p. PRIME-447288
- q. PRIME-447289
- r. PRIME- 447290

s. PRIME-447291
t. PRIME-447292
u. PRIME-447293
v. PRIME-447294
w. PRIME-447295
x. PRIME-447296
y. PRIME-447297
z. PRIME-447298
aa. PRIME-447299
bb. PRIME-447300
cc. PRIME-447301
dd. PRIME-447302
ee. PRIME-447303
ff. PRIME-447304
gg. PRIME-447305
hh. PRIME-447306
ii. PRIME-447307
jj. PRIME-447308
kk. PRIME-447309
ll. PRIME-447310
mm. PRIME-447311
nn. PRIME-447312
oo. PRIME-447313

pp. PRIME-447314

qq. PRIME-447315

rr. PRIME-447316

ss. PRIME-447317

tt. FLSA class list (“Opt-In List (final).xlsx (03191301x9E351).xlsx”)

uu. Rule 23 class list (“R23 Class List Re. (final))xlsx
(03191302x9E351).xlsx”)

3. Settlement Negotiations. No party shall attempt to introduce any evidence of, elicit testimony concerning, or make any argument the substance of, or any details about, the parties’ settlement negotiations, including the parties’ formal mediations which occurred, or are scheduled to occur, on August 29, 2024, and November 4, 2024.

4. Rule 1006 Exhibits. Both parties have submitted exhibit lists that identify summary exhibits pursuant to Federal Rule of Evidence 1006. Any such exhibits will be exchanged no later than October 31, 2024. The opposing party must identify any objections by November 4, 2024, to allow the disclosing party an opportunity to cure any deficiencies, the parties to meet and confer, or, if the parties cannot reach an agreement, the dispute can be raised with the Court.

5. Demonstratives. No party shall seek to display a demonstrative, including a demonstrative exhibit, at trial without first disclosing the proposed demonstrative to the opposing party.

a. Proposed demonstratives for opening statements must be disclosed no later than 3:00 p.m. on November 11. The opposing party must identify any objections to the disclosed demonstrative no later than 6:00 p.m. to allow the disclosing party an opportunity to cure any deficiencies, the parties to

meet and confer, or, if the parties cannot reach an agreement, the dispute can be raised with the Court.

- b. Other proposed demonstratives must also be disclosed no later than 6:30 p.m. the night before it may be used, to allow the opposing party opportunity to evaluate it. The opposing party must identify any objections to the disclosed demonstrative no later than 8:30 p.m. to allow the disclosing party an opportunity to cure any deficiencies, the parties to meet and confer, or, if the parties cannot reach an agreement, the dispute can be raised with the Court.

Dated: October 23, 2024

Respectfully submitted,

/s/Michele L. Maryott

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CERTIFICATE OF SERVICE

I certify that, on October 23, 2024, I electronically filed the above document via the Court's CM/ECF system, which will send notification of this filing to all counsel of record.

/s/ Michele L. Maryott

Michele L. Maryott